

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KEVIN EUGENE SWARTZ,	:	Case No. 4:15-CV-00393
	:	
Plaintiff,	:	(Judge Brann)
	:	
v.	:	
	:	
SEALED POWER CORPORATION,:		(Magistrate Judge Mehalchick)
<i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

January 13, 2017

Before the Court for disposition is a Report and Recommendation filed by Magistrate Judge Karoline Mehalchick on December 8, 2016.¹ In this Report, Magistrate Judge Mehalchick recommended that the Court (1) deny Defendant SPX Corporation’s (“SPX”) Motion to Dismiss under Federal Rule of Civil Procedure 4(m), and (2) grant Plaintiff forty-five days to serve the Summons and Amended Complaint in accordance with the Federal Rules of Civil Procedure.² On December 27, 2016, Plaintiff Kevin Eugene Schwartz filed with this Court a document entitled “Certificate of Service” which attempts to memorialize his subsequent proper service of Defendant SPX.³

¹ ECF No. 35.

² Id.

³ ECF No. 36.

Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of fact and recommendations.”⁴ Once filed, this Report and Recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.⁵ Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”⁶ Nevertheless, whether timely objections are made or not, the district court may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge.⁷

Following independent review of the record, I am satisfied that the Report and Recommendation contains no clear facial error. In the interests of judicial economy, I will not rehash Magistrate Judge Mehalchick's sound reasoning and legal citation. The Court is in full agreement that Plaintiff should be granted forty-five days in which to properly serve the summons and amended complaint.

AND NOW, therefore, IT IS HEREBY ORDERED THAT:

1. Magistrate Judge Karoline Mehalchick's Report and Recommendation (ECF

No. 35) is **ADOPTED IN ITS ENTIRETY**.

⁴ 28 U.S.C. 636(b)(1)(B).

⁵ 28 U.S.C. 636(b)(1).

⁶ Rieder v. Apfel, 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing United States v. Raddatz, 447 U.S. 667, 676 (1980)).

⁷ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

2. Defendant SPX Corporation's Motion to Dismiss Under Federal Rule of Civil Procedure 4(m) (ECF No. 32) is **DENIED**.
3. To the extent he deems necessary, Plaintiff is granted an additional forty-five days from the date of this Order to perfect service under Federal Rule of Civil Procedure 4(m).
4. This case is remanded to Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge